

PLANNING COMMISSION MEETING  
City of Gardner, Kansas  
Council Chambers  
August 23, 2021  
7 p.m.

**CALL TO ORDER**

The meeting of the Gardner Planning Commission was called to order at 7:01 p.m. on Monday, August 23, 2021, by Chairman Scott Boden.

**PLEDGE OF ALLEGIANCE**

Chairman Boden led the Pledge of Allegiance.

**ROLL CALL**

Commissioners present:

Chairman Boden

Commissioner Ham

Commissioner Meder

Commissioner McNeer

Commissioner Jueneman

Commissioner Cooper

Staff members present:

David Knopick, Community Development Director

Robert Case, Principal Planner

Melissa Krayca, Administrative Assistant

Spencer Low, City Attorney

**CONSENT AGENDA**

**1. Approval of the minutes as written for the meeting on July 26, 2021.**

**Motion made by Commissioner McNeer to approve the minutes, seconded by Commissioner Meder.**

**Motion passed 6-0.**

**REGULAR AGENDA**

**Item 1. Rezoning request Z-21-05 is located at the northeast corner of Moonlight & Woodson.**

Dave Knopick, Community Development Director provided an introductory overview of the components of this item.

**APPLICANT PRESENTAION**

Arsen Khratyan, STAK Architecture introduced himself and his partnership with the developer Muhammad Abubakar. Initially, the zoning request was for C- 2 (General Business) but have now agreed to seek CO-A (Neighborhood Business) after city staff recommendation. They would like to develop the property with neighborhood-scale developments that might include a gas station, liquor store, ice cream shop in phase 1. Phase 2 may include a market, coffee shop, and small retail.

Muhammad addressed the commissioners and explained he intends to provide what is best for the community. He owns stations in Cleveland MO, Garden City, MO, and 11 groceries in the Kansas City area.

### **STAFF PRESENTATION**

Mr. Robert Case presented the information in the staff report for the Moonlight & Woodson rezoning. The property is currently not platted and has one house and accessory structure located there. All utilities are available to the subject parcel and are currently zoned A (Agriculture) District. The general character of the neighborhood includes two and four-family homes to the east and south along with a light industrial building directly south, single family to the west and north. The site is zoned for agriculture which could raise some concerns with the surrounding residential. With use restrictions and design standards, the change in zoning could allow more compatible development to occur on the property. The rezoning allows for a transition between the industrial zoning to the south and the residential that surrounds it. Staff recommends that the Planning Commission consider and recommend a less intensive zoning district than the requested C-2 General Business District for the property located at 18085 Moonlight Rd.

### **PUBLIC HEARING**

Public Hearing opened by Planning Commission.

No one from the public spoke regarding this matter.

Public Hearing closed by Planning Commission.

### **COMMISSION DISCUSSION**

Commissioner Ham expressed her concern with the potential noise and traffic.

Mr. Knopick stated that the applicant will have to come back before the commissioners with an approved development plan that would address such concerns.

Commissioner Meder echoed the same concern but also believed the development is needed for the area.

Commissioner Cooper commented she would prefer green spaces be taken into consideration when developing the plan.

Chairman Boden expressed his appreciation for the less intensive zoning request as he may not approve otherwise.

Mr. Knopick assured the commissioners that during the next steps city staff will be sensitive to the concerns and help guide the applicant to create an appropriate concept.

**Motion made after review of Application Z-21-05, a rezoning for 18085 Moonlight Road (parcel ID CF231430-2014), and the staff report dated August 23, 2021, the Planning Commission recommends rezoning such parcel from A - Agricultural District to CO-A – Neighborhood Business District with the finding that the CO-A Neighborhood Business District is a lesser change then the C-2 General Business District request as demonstrated by Table 5-2: Use Table in Section 17.05 Zoning Districts and Use**

Standards of the Gardner Land Development Code (LDC), provided the following conditions are met:

1. Future use of the property be limited to the following uses from Table 5-2: Use Table and the associated use descriptions found in Section 17.05.030 General Use Standards of the LDC:

#### **RESIDENTIAL DWELLINGS**

- Multi-Unit Household Living P
- Mixed-Use (apartment over commercial/service) P
- Live/Work P

#### **CIVIC/INSTITUTIONAL**

- Cultural and Public Service P
- Open/Civic Space P

#### **RETAIL** ○ Retail – Micro (under 1K) P

- Retail – Neighborhood (1K – 3K) P
- Retail – Small (3K – 6K) P
- Grocery – Market (under 10K) P
- Grocery – Store (10K – 45K) C\*
- Outdoor Sales – Limited A\*
- Convenience Store/Fuel Station – Limited (1-4 pumps) P\*
- Convenience Store/Fuel Station – General (5-12 pumps) C\*

#### • **SERVICE AND EMPLOYMENT**

- Animal Care – General P
- Day Care Center P
- Food and Beverage – Accessory Outdoor A\*
- Food and Beverage – General P\*
- Food and Beverage – Mobile T\*
- Health Care – Small P
- Lodging – Bed and Breakfast (up to 5 rooms) P
- Lodging – Inn (up to 20 rooms) P
- Office – Limited (under 10K) P
- Office – General (10K – 40K) C
- Personal Services – Limited (under 3K) P
- Personal Services – General (3K – 10K) P
- Recreation/Entertainment – Indoor Minor (under 10K) P
- Temporary Use T\*

#### **INDUSTRIAL**

- Manufacturing – Limited/Artisan P

#### **AGRICULTURAL**

- None

#### **COMMUNICATIONS AND UTILITIES**

- Small cell and distributed antenna systems mounted or collocated on monopoles, utility poles, or street lights in the public rights-of-way P\*

- Communication facilities designed as an architecturally compatible element mounted or collocated on nonresidential buildings A\*
- Communication facilities designed as an architecturally compatible element mounted or collocated on mixed-use or live/work buildings A\*
- Wind Energy Conversion System – Small C\*
- Solar Collector – Roof Mounted A\*
- Solar Collector – Ground Mounted C\*
- A = Accessory Use; C = Conditional Use; P = Permitted Use; T = Temporary Use;\* = Supplemental Use Regulations

2. That a preliminary and final development plan be submitted, reviewed, and approved by the City Staff, Planning Commission, and City Council through the prescribed public processes for such development plans found in Section 17.05.030 within 12 months of this rezoning action to add the P (Planned District) designation to the CO-A Neighborhood Business District. If a development plan is not approved within such a timeframe then the zoning for this parcel will revert to the A - Agricultural District.

And forwards the recommendation for approval to the Governing Body.

**Motion made by Commissioner Meder and seconded by Commissioner McNeer.  
Motion passed 6-0.**

## **Item 2. Final Development Plan FDP-19-03 revision/deviation request for Phase 1 Buildings 5-10 Tallgrass Apartment.**

Dave Knopick, Community Development Director provided an introductory overview of the components of this item.

### **APPLICANT PRESENTATION**

Todd Bleakley, Tallgrass Apartments explained they would like to reduce the amount of concrete poured for the 8 ft. sidewalks and install 6 ft. sidewalks. They would prefer to use the saved money to expand the walking trails from 5 ft. to 8 ft. for the residents. They also feel that the narrower sidewalks are more aesthetically pleasing and provide additional lawn depth along the fronts of the buildings.

### **STAFF PRESENTATION**

Mr. Case gave a brief overview of the deviation request as it pertains to the land development code that outlines development standards for planned developments. The request is to allow for a reduction in the width of sidewalks that parallel parking lots in front of apartment buildings from 8 ft. to 6 ft. The ADA compliant 6 ft. wide sidewalks allow for vehicle encroachment and still provide an approximately 4' clear path. The staff recommends approval of the revised final development plan for Tallgrass, 1<sup>st</sup> Plat subject to internal trails be widened from 5 ft. to 8 ft. and the applicant's engineer provide written proof of ADA compliance for all sidewalks along with buildings that front parking lots.

### **COMMISSION DISCUSSION**

Commissioner Ham asked if the ADA compliance can be maintained with all models of vehicles if 6ft sidewalks are installed.

Mr. Knopick stated there are no guarantees how people will park but the city did some research on-site and the 6ft sidewalks appear to be sufficient to maintain the 3 to 3.5ft clearance.

Mr. Allenbrand explained that 36 inches is the minimum travel path required for ADA compliance and they will have a 42-inch travel path throughout.

Commissioner Meder stated her concerns regarding checks and balances within the development as she visited the job site and noticed the sidewalks had been poured with additional concrete poured after the fact.

Mr. Bleakley stated the sidewalks had been poured incorrectly and required the additional 3ft to be poured.

Mr. Jueneman inquired if consideration had been made in the event a pickup truck was to park the rear end first if the walkway would be passable.

Mr. Allenbrand said that regardless of the size of the sidewalk a pickup truck would impede the passable area and would hope the apartment management would address the situation as needed.

Mr. McNeer commented that he was impressed with the developer and City staff working together to widen the walking trails within the development.

Chairman Boden noted that this is the 2<sup>nd</sup> developer who has requested deviation to sidewalk width and maybe it would be pertinent to visit the land development code to require the 6ft standard that seems to be common with other municipalities' codes.

**Motion made after review of application FDP-19-03, a revised final development plan for Tallgrass, 1<sup>st</sup> Plat dated August 6, 2021, and staff report dated August 23, 2021, The Planning Commission approves the application as proposed, provided the following conditions are met:**

- 1. The applicant's engineer shall provide written proof of ADA compliance for all sidewalks alongside buildings that front parking lots.**
- 2. Internal trails shall be widened from 5ft. to 8ft.**

**Motion made by Commissioner McNeer and seconded by Commissioner Cooper.**

**Motion passed 5-1.**

**Commissioner Meder voting against.**

## **DISCUSSION ITEMS**

### **Item 1. Utility-Scale Solar Facilities**

Sean Pendley, Deputy Director Johnson County Planning presented the information in his presentation Utility-Scale Solar Facilities. The county has been approached by Next Era Energy for a possible solar facility within the county. There is a growing demand for renewable energy and solar energy is the fast-growing energy source. Policy review and BOCC study session occurred in March of 2021 and there are upcoming study sessions in September. There is to be a public hearing in October or November as well. The proposed development standards would include a maximum percentage of PV panel coverage at 70% and greater than a 1-mile distance from neighboring cities. The setbacks would require the structures to be at least 250ft. from existing dwellings and, substations and battery storage at least 150 ft. from a property line. The disturbed lands shall be reseeded with prairie grasses, forbs, and pollinators as well as security fencing. Roads, residential zoning, and existing dwellings shall be screened from views of PV panel equipment by trees and berms. The locational criteria would require placement in

nonresidential areas and configured to reduce impacts such as views and noise. Mr. Pendley that he welcomes any questions or comments at the upcoming work sessions.

### **COMMISSION DISCUSSION**

Commissioner Cooper asked how land is anticipated to be acquired for the solar facilities.

Mr. Pendley stated it would remain privately owned and be leased from current landowners.

Although a conditional use permit will be required by Johnson County, the landowner would still have rights to land use as see fit for and agriculture purposes desired.

Commissioner Cooper also inquired about the restoration requirements is once the conditional use permit expires for the solar facility

Mr. Pendley stated at the time of expiration that a new permit can be applied for to extend if the lease is agreeable with the landowner. If the facility is to be decommissioned then there will be a protocol to restore the land.

Commissioner McNeer asked if imminent domain would be implemented for these projects.

Mr. Pendley stated that the county would not force any landowners into a lease and it is strictly up to them to secure a lease with potential solar facilities.

Commissioner McNeer commented the abandoned Sunflower Ammunition site may be an ideal location for a solar facility.

Chairman Boden stated his concern for the 1-mile buffer and the rate of expansion. He asked that the county keep the City of Gardner's growth plan in mind.

Commissioner Meder expressed her appreciation that a decommissioning plan has been considered in the planning process.

### **Item 2. Off-Site Advertising Signage**

Mr. Knopick provided background information and framework concerning any draft amendments that are subject to review. The Governing Body was approached by a sign provider, representing a local property owner, with an inquiry and proposal regarding the allowance of off-site advertising signage along the I-35 corridor in Gardner. Currently, the Gardner Land Development Code (LDC) does not allow off-site advertising. After listening to the inquiry and proposal, the Governing Body asked that planning staff look into potential amendments/changes to the LDC that would accommodate off-site advertising signage and staff has been working on the initial development of draft amendments and changes for future consideration by the Planning Commission and Governing Body per the procedures outlined in the LDC. Any draft amendments are subject to further review by planning staff and the City Attorney before consideration by the Planning Commission or Governing Body. It is anticipated that the Planning Commission will hold a public hearing on draft text amendments soon. Mr. Knopick asked the commissioner to look over the provided information before the public hearing.

### **COMMISSION DISCUSSION**

Commissioner Hamm expressed concerns about polarizing content on the signs.

Commissioner Cooper inquired about separation minimums for signs and what is the potential impact to Gardner in terms of square feet.

Mr. Knopick stated the state minimum must be adhered to but we could extend the separation in our code if we choose and it approximated under 5 miles could be impacted along I-35 highway.

Commissioner McNeer asked what the commissioners are being asked to consider concerning guidelines over the next 30 days.

Mr. Knopick stated Gardner is not allowed to regulate the sign content. Sign construction and maintenance standards are the factors the city could help regulate. It is recommended to consider what standards reflect the values of Gardner.

**Motion made to adjourn by Commissioner McNeer and seconded by Commissioner Jueneman.**

**Motion passed 6-0.**

**Meeting adjourned at 8:45 p.m.**